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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,587	04/26/2005	Jan Koops	K346.312-0001	2861

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EXAMINER	
SANTOS, ROBERT G	
ART UNIT	PAPER NUMBER
3673	

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/506,587	KOOPS, JAN	
	Examiner	Art Unit	
	Robert G. Santos	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01112006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,243,828 to McCarty. As concerns claim 1, McCarty '828 shows the claimed limitations of a pillow system comprising at least a basis element (14, 16) made of foam rubber, polyurethane foam, polyether foam or a comparable foam product, an adjustable pillow (27) fitted onto the basis element and a cover (as described in column 4, lines 73-75) for enclosing the basis element and the adjustable pillow, wherein the basis element is at least substantially flat (as shown in Figures 1 & 3) and that the adjustable pillow is in longitudinal cross section at least substantially wedge-shaped (as shown in Figures 3 & 4). As concerns claims 7 and 8, the reference discloses a condition wherein the adjustable pillow comprises a number of layers made of a relatively high-density foam rubber, polyurethane foam, polyether foam or a comparable foam product (as described in column 3, lines 46-48), further wherein the at least one layer is in a longitudinal cross section at least substantially wedge-shaped (as shown in Figures 3 & 4). With regards to claim 9, the reference is considered to show a condition wherein the top side (18, 19) of the pillow system is provided with a layer made of a relatively low density foam rubber, polyurethane foam, polyether foam or a comparable foam product in column 2, lines 45-48.

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3. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,947,500 to Seiler. As concerns claims 1, 2 and 10, Seiler '500 shows the claimed limitations of a pillow system comprising at least a basis element (1-3) made of foam rubber, polyurethane foam, polyether foam or a comparable foam product (as described in column 3, lines 4-11), an adjustable pillow (4-9 & 19) fitted onto the basis element and a cover (21) for enclosing the basis element and the adjustable pillow, wherein the adjustable pillow is an inflatable pillow (as described in column 3, lines 15-17), wherein the basis element (1) is at least substantially flat and that the adjustable pillow (4-9) is in longitudinal cross section at least substantially wedge-shaped and wherein the cover is made of an elastic material (as described in column 3, line 64) and can be placed around the other constituent parts of the pillow system (as shown in Figure 1). With regards to claim 3, the reference is considered to show a condition wherein the basis element is provided with a depression (enclosed within elements 2 & 3), under operational condition transverse positioned to a user, which at least partly encloses the inflatable pillow (as shown in Figures 1 & 3). As concerns claims 4 and 5, the reference discloses a condition wherein on one side the basis element is provided with a flap (20) made of foam rubber, polyurethane foam, polyether foam or a comparable foam product and that under operational conditions the flap is positioned on top of the inflatable pillow (as shown in Figures 1 & 3), wherein the basis element is made of a relatively high density foam rubber, polyurethane foam, polyether foam or a comparable foam product (as described in column 3, lines 4-5) and the flap of a relatively low density foam rubber, polyurethane foam, polyether foam or a comparable foam product (as described in column 3, lines 43-45).

As concerns claims 7 and 8, the reference discloses a condition wherein the adjustable pillow comprises a number of layers (19) made of a relatively high-density foam rubber, polyurethane foam, polyether foam or a comparable foam product (as described in column 3, lines 36-41), further wherein the at least one layer is in a longitudinal cross section at least substantially wedge-shaped (as shown in Figures 1 & 3). With regards to claim 9, the reference is considered to show a condition wherein the top side (20) of the pillow system is provided with a layer made of a relatively low density foam rubber, polyurethane foam, polyether foam or a comparable foam product in column 3, lines 43-45.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCarty '828 in view of U.S. Pat. No. 5,953,777 to Buck. McCarty '828 does not specifically disclose the use of a cover made of an elastic material. Buck '777 provides the basic teaching of an adjustable pillow system (10) provided with a stretchable pillowcase (12). The skilled artisan would have found it obvious at the time the invention was made to provide the pillow system of McCarty '828 with a cover made of an elastic material in order to accommodate securely pillow systems of various sizes, thereby aiding in providing enhanced user comfort.

Response to Amendment

6. Applicant's arguments with respect to claims 1-5 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koops '409, Kim '675 and Chee '333.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suzanne L. Barrett can be reached on (571) 272-7053. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
April 13, 2006